

AMENDED IN SENATE AUGUST 31, 2016  
AMENDED IN SENATE AUGUST 19, 2016  
AMENDED IN SENATE AUGUST 9, 2016  
AMENDED IN SENATE AUGUST 1, 2016  
AMENDED IN ASSEMBLY JUNE 1, 2016  
AMENDED IN ASSEMBLY APRIL 14, 2016  
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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2153**

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**Introduced by Assembly Member Cristina Garcia  
(Coauthor: Assembly Member Santiago)**

February 17, 2016

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An act to add ~~Sections~~ *Section 25215.5.5 and 124166* to, and to repeal and add Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, ~~making an appropriation therefor~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. The Lead-Acid Battery Recycling Act of 2016.

Existing law prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. Existing

law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid battery purchased by that consumer from the dealer. A violation of these provisions is a misdemeanor.

This bill, the Lead-Acid Battery Recycling Act of 2016, would, as of January 1, 2017, revise these provisions to require a dealer to accept, at the point of transfer, specified types of used lead-acid batteries and would prohibit the dealer from charging any fee to accept these used lead-acid batteries. The bill, on and after April 1, 2017, would require a dealer to collect a refundable ~~deposit, as specified,~~ *deposit* for each new lead-acid battery of these types from a person who purchases the battery and who does not simultaneously provide a used lead-acid battery of the same size and type, and would require the dealer to refund the deposit to the person if, within 45 days of the sale of that lead-acid battery, the person presents a used lead-acid battery of the same type and size. The bill would require a dealer to post a specified notice or include specified information on the purchaser's receipt for one of these lead-acid batteries with regard to these provisions. The bill would allow the dealer to keep any lead-acid battery refundable deposit that is not properly claimed within 45 days after the date of sale of the new lead-acid battery.

This bill, on and after April 1, 2017, *until March 31, 2022*, would require a California battery fee in the amount of \$1 to be imposed on a person, except as specified, for each replacement lead-acid battery purchased that is of one of the specified types. The bill would authorize the dealer to retain 1 ½% of the fee as reimbursement for any costs associated with the collection of the fee and would require the dealer to remit the remainder to the State Board of Equalization (~~state board~~ *board*) *for deposit into the Lead-Acid Battery Cleanup Fund, except as specified. On and after April 1, 2022, the bill would increase the California battery fee to \$2.*

This bill, on and after April 1, 2017, *until March 31, 2022*, would require a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California, for deposit into the Lead-Acid Battery Cleanup Fund. ~~The bill would suspend the manufacturer battery fee if the balance in the Lead-Acid Battery Cleanup Fund reaches \$100,000,000 and reinstate it if that balance drops to \$30,000,000. The bill would require the Department of Toxic Substances~~

~~Control (department) and the state board to establish procedures regarding notification between the department, the state board, and the Department of Finance regarding the balance of the Lead-Acid Battery Cleanup Fund and the adjustment of the manufacturer battery fee amount. The bill would require the department to provide notice to manufacturers before changing the manufacturer battery fee amount, as specified. The bill would allow certain wholesalers of lead-acid batteries to elect to be considered manufacturers for these purposes, as specified. The bill would require manufacturer battery fees remitted pursuant to these provisions to be credited against amounts owed by the manufacturer to the state under a judgment or determination of liability under specific hazardous materials provisions or any other law for removal, remediation, or other response costs relating to a release of a hazardous substance from a lead-acid battery recycling facility. The bill would require that the amount paid by a manufacturer for a manufacturer battery fee be considered to reduce the manufacturer's share of liability in the allocation of costs among potentially responsible parties in a contribution action brought by a private party related to a release of hazardous substances from a lead-acid battery recycling facility.~~

Of moneys collected pursuant to this act, the bill would require the board to retain moneys necessary for the payment of refunds and to reimburse the board for expenses in the collection of the California battery fee and the manufacturer battery fee. The bill would require that the remaining moneys be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill, and would ~~continuously appropriate those moneys to the Department of Toxic Substances Control~~ *make the moneys available upon appropriation by the Legislature* for purposes of response actions at ~~areas any area~~ *any area* of the state that *is reasonably suspected to have been contaminated by the production, recycling, or improper disposal operation of a lead-acid batteries, battery recycling facility, administration of the fund, fund, the department's administration and implementation of the act's provisions, and reimbursement of certain loans for lead-cleanup, and the establishment and administration of a Lead Advisory Committee.* *cleanup.* The bill would make the reimbursement money available for further loans, as specified. The bill would require \$1,200,000 be loaned from the ~~General Fund or a special fund~~ *California Tire Recycling Management Fund* to the board for implementing the collection of the

California battery fee and the manufacturer battery fee and would require that the loan be repaid before October 1, 2017.

This bill would require, on and after July 1, 2017, a manufacturer to place a recycling symbol, as specified, and other information on all replacement lead-acid batteries sold in California.

This bill would ~~require~~ *require, by February 1, 2018, and annually thereafter*, the department to report ~~annually to the Governor and the Legislature~~ on the status of the Lead-Acid Battery Cleanup Fund and on the department's progress in implementing these provisions.

This bill would authorize the board to adopt regulations to implement these lead-acid battery management provisions. Because a violation of these regulations would be a crime, this bill would impose a state-mandated local program.

This bill would ~~require~~ *require, on or before January 1, 2017*, manufacturers to notify distributors, wholesalers, and dealers of the lead-acid batteries it manufactures of the bill's requirements, as specified.

~~Under existing law, known as the Childhood Lead Poisoning Prevention Act of 1991, the department is required to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposure in California.~~

~~The bill would require, by October 1, 2017, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Committee, with a prescribed membership, to review and advise regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the committee to publish a recommended regulatory agenda that would identify sources of lead that affect children and ensure that regulatory standards are protective of the health of the children of this state, as specified. The bill would appropriate specified amounts annually from the Lead-Acid Battery Cleanup Fund to the Office of Environmental Health Hazard Assessment for purposes of establishing and administering the advisory committee.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: ~~yes~~-no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 10.5 (commencing with Section 25215)  
2 is added to Chapter 6.5 of Division 20 of the Health and Safety  
3 Code, to read:

4 Article 10.5. The Lead-Acid Battery Recycling Act of 2016

5  
6  
7 25215. This article shall be known, and may be cited, as the  
8 Lead-Acid Battery Recycling Act of 2016.

9 25215.1. For purposes of this article, the following definitions  
10 shall apply:

11 (a) "Board" means State Board of Equalization.

12 (b) "Business" means any person, as defined in subdivision (j),  
13 ~~that is not except~~ a natural ~~person.~~ *person or a city, county, city*  
14 *and county, district, commission, the state, or any department,*  
15 *agency, or political subdivision of any of those, or an interstate*  
16 *body or, to the extent permitted by law, the United States and its*  
17 *agencies and instrumentalities.*

18 (c) "California battery fee" means the fee imposed pursuant to  
19 Section 25215.25.

20 (d) "Dealer" means every person who engages in the retail sale  
21 of replacement lead-acid batteries directly to persons in California.  
22 "Dealer" includes a manufacturer of a new lead-acid battery that  
23 sells at retail that lead-acid battery directly to a person through  
24 any means, including, but not limited to, a transaction conducted  
25 through a sales outlet, catalog, or Internet Web site or any other  
26 similar electronic means.

27 (e) "Lead-acid battery" means any battery weighing over five  
28 kilograms that is primarily composed of both lead and sulfuric  
29 acid, whether sulfuric acid is in liquid, solid, or gel state, with a  
30 capacity of six volts or more that is used for any of the following  
31 purposes:

32 (1) As a starting battery that is designed to deliver a high burst  
33 of energy to an internal combustion engine until it starts.

1 (2) As a motive power battery that is designed to provide the  
 2 source of power for propulsion or operation of a vehicle, including  
 3 a watercraft.

4 (3) As a stationary storage or standby battery that is designed  
 5 to be used in systems where the battery acts as either electrical  
 6 storage for electricity generation equipment or a source of  
 7 emergency power, or otherwise serves as a backup in case of failure  
 8 or interruption in the flow of power from the primary source.

9 (4) As a source of auxiliary power to support the electrical  
 10 systems in a vehicle, as defined in Section 670 of the Vehicle Code,  
 11 including a vehicle as defined in Section 36000 of the Vehicle  
 12 Code, or an aircraft.

13 (f) “Lead-acid battery recycling facility” means any site at which  
 14 lead-acid batteries are or have been disassembled for the purpose  
 15 of making components available for reclamation to produce  
 16 elemental lead or lead alloys or at which lead-acid batteries or their  
 17 components, or both, are or have been reclaimed to produce  
 18 elemental lead or lead alloys.

19 (g) “Manufacturer” means either of the following:

20 (1) The person who manufactures the lead-acid battery and who  
 21 sells, offers for sale, or distributes the lead-acid battery in the state,  
 22 ~~unless subdivision (b) of Section 25215.35 applies to the lead-acid~~  
 23 ~~battery, in which case the wholesaler shall be deemed the~~  
 24 ~~manufacturer, except for purposes of Section 25215.65. If an entity~~  
 25 ~~that is in the business of manufacturing lead-acid batteries engages~~  
 26 ~~a third party to manufacture lead-acid batteries on its behalf,~~  
 27 ~~that entity shall be deemed the manufacturer of those lead-acid~~  
 28 ~~batteries. state.~~

29 (2) If there is no person described in paragraph (1) that is subject  
 30 to the jurisdiction of the state, the manufacturer is the person who  
 31 imports the lead-acid battery into the state for sale or distribution.

32 (h) “Manufacturer battery fee” means the fee imposed pursuant  
 33 to Section 25215.35.

34 (i) “Owner or operator” has the same meaning given in Section  
 35 9601(20) of Title 42 of the United States ~~Code. Code and any~~  
 36 ~~person that previously met that definition or is the legal successor~~  
 37 ~~to a person that meets the definition or previously met the~~  
 38 ~~definition.~~

39 (j) “Person” means an individual, trust, firm, joint stock  
 40 company, business concern, corporation, including, but not limited

1 to, a government corporation, partnership, limited liability  
2 company, or association. “Person” also includes any city, county,  
3 city and county, district, commission, the state, or any department,  
4 agency, or political subdivision of any of those, interstate body,  
5 and the United States and its agencies and instrumentalities to the  
6 extent permitted by law.

7 (k) “Remedial action” has the same meaning as in Section  
8 25322.

9 (l) “Removal” has the same meaning as in Section 25323.

10 (m) “Replacement lead-acid battery” means a new lead-acid  
11 battery that is sold at retail subsequent to the original sale or lease  
12 of the equipment or vehicle in which the lead-acid battery is  
13 intended to be used. “Replacement lead-acid battery” does not  
14 include a spent, discarded, refurbished, reconditioned, rebuilt, or  
15 reused lead-acid battery.

16 (n) “Response action” has the same meaning as in Section  
17 25323.3.

18 (o) (1) A “retail sale” or a “sale at retail” has the same meaning  
19 as defined in Section 6007 of the Revenue and Taxation Code.

20 (2) “Retail sale” does not include any of the following:

21 (A) The sale of a battery for which a California battery fee has  
22 previously been paid.

23 (B) The sale of a replacement lead-acid battery that is  
24 temporarily stored or used in California for the sole purpose of  
25 preparing the replacement lead-acid battery for use thereafter solely  
26 outside of the state and that is subsequently transported outside  
27 the state and thereafter used solely outside of the state.

28 (C) The sale of a battery for incorporation into new equipment  
29 for subsequent resale.

30 (D) The replacement of a lead-acid battery pursuant to a  
31 warranty or a vehicle service contract described under Section  
32 12800 of the Insurance Code.

33 (E) The sale of any battery intended for use with or contained  
34 within a medical device, as defined in the federal Food, Drug, and  
35 Cosmetic Act (21 U.S.C. 321(h)) as that definition may be  
36 amended.

37 (p) “Used lead-acid battery” means a lead-acid battery no longer  
38 fully capable of providing the power for which it was designed or  
39 that a person no longer wants for any other reason.

1 (q) “Wholesaler” means any person who purchases a lead-acid  
2 battery from a manufacturer for the purpose of selling the lead-acid  
3 battery to a dealer, high-volume customer, or to a person for  
4 incorporation into new equipment for resale.

5 25215.15. (a) Except as provided in subdivision (b), no person  
6 shall dispose, or attempt to dispose, of a lead-acid battery at a solid  
7 waste facility or on or in any land, surface waters, watercourses,  
8 or marine waters.

9 (b) A person may dispose of a lead-acid battery at ~~both~~ *either*  
10 of the following locations:

11 (1) A facility, including a facility located at a solid waste facility,  
12 established and operated for the purpose of recycling, or providing  
13 for the eventual recycling of, lead-acid batteries.

14 (2) A dealer pursuant to Section 25215.2.

15 25215.2. (a) A dealer shall accept from persons at the point  
16 of transfer a used lead-acid battery of a type listed in paragraph  
17 (1), (2), or (4) of subdivision (e) of Section 25215.1, but shall not  
18 be required to accept from any person more than six used lead-acid  
19 batteries per day. A dealer shall not charge any fee to receive a  
20 used lead-acid battery.

21 (b) On and after April 1, 2017, a dealer shall charge to each  
22 person who purchases a replacement lead-acid battery of a type  
23 listed in paragraph (1), (2), or (4) of subdivision (e) of Section  
24 25215.1 and who does not simultaneously provide the dealer with  
25 a used lead-acid battery of the same type and size a refundable  
26 deposit for each such battery purchased. The dealer shall display  
27 the amount of the deposit separately on the receipt provided to the  
28 purchaser. The dealer shall refund the deposit to that person if,  
29 within 45 days of the sale of the replacement lead-acid battery, the  
30 person presents to the dealer a used lead-acid battery of the same  
31 type and size. A dealer may require the person to provide a receipt  
32 documenting the payment of the deposit before refunding any  
33 deposit. A dealer may keep any lead-acid battery deposit moneys  
34 that are not properly claimed within 45 days after the date of sale  
35 of the replacement lead-acid battery, not including any sales tax  
36 reimbursement charged to the consumer. Sales tax reimbursement  
37 charged to the consumer on the amount of the deposit shall be  
38 remitted to the board.



1 (c) A dealer shall post a written notice that is clearly visible in  
2 the public sales area of the establishment, or include on the  
3 purchaser’s receipt, the following language:  
4

5  
6 This dealer is required by law to charge a nonrefundable \$1 California battery  
7 fee and a refundable deposit for each lead-acid battery purchased.  
8

9 A credit of the same amount as the refundable deposit will be issued if a used  
10 lead-acid battery is returned at the time of purchase or up to 45 days later along  
11 with this dealer’s receipt.  
12

13 (d) The department shall provide notice of an alleged violation  
14 of subdivision (c) to any person alleged to be in violation of that  
15 subdivision no less than 60 days before the issuance of *an order*  
16 *or filing an action imposing* a civil penalty pursuant to subdivision  
17 (b) of Section 25189.2. If the person corrects the alleged violation  
18 before the issuance of the civil penalty, *order is issued or the action*  
19 *is filed* the department shall not ~~issue~~ impose the civil penalty.

20 (e) Subdivision (c) does not apply to any of the following:

21 (1) A person whose ordinary course of business does not include  
22 the sale of lead-acid batteries.

23 (2) A person that does not sell lead-acid batteries directly to  
24 consumers, such as over-the-counter, but instead removes  
25 nonfunctional or damaged batteries and installs new lead-acid  
26 batteries as a part of an automotive repair dealer service.

27 (3) A business that removes lead-acid batteries and installs new  
28 lead-acid batteries as a part of roadside services. “Roadside  
29 services,” for purposes of this paragraph, means the services  
30 performed upon a motor vehicle for the purpose of transporting  
31 the vehicle or to permit it to be operated under its own power, by  
32 or on behalf of a motor club holding a certificate of authority  
33 pursuant to Chapter 2 (commencing with Section 12160) of Part  
34 5 of Division 2 of the Insurance Code.

35 (f) Except as authorized by this article, a dealer shall not collect  
36 a refundable deposit for a lead-acid battery from a person.

37 25215.25. (a) (1) On and after April 1, 2017, *until March 31,*  
38 *2022,* a California battery fee of one dollar (\$1) shall be imposed  
39 ~~on a person, not including a business that will resell the battery,~~  
40 *person* for each replacement lead-acid battery of a type listed in

1 paragraph (1), (2), or (4) of subdivision (e) of Section 25215.1  
2 purchased from a dealer. *On and after April 1, 2022, the amount*  
3 *of the fee shall be two dollars (\$2).*

4 (2) ~~The~~ *Except for sales to businesses, the* dealer shall charge  
5 a person the amount of the California battery fee as a charge that  
6 is separate from, and not included in, any other fee, charge, or  
7 other amount paid by the person.

8 (3) The dealer shall collect the California battery fee at the time  
9 of sale and may retain 1 ½ percent of the fee as reimbursement for  
10 any costs associated with the collection of the fee. The remainder  
11 of the California battery fee collected by the dealer shall be paid  
12 to the board in a manner and form prescribed by the board and at  
13 the time the return is required to be filed, as specified in Section  
14 25215.47.

15 (4) All moneys collected by a dealer pursuant to this section  
16 that are not properly remitted to the board pursuant to paragraph  
17 (3) shall be deemed to be a debt owed to the state by the dealer.

18 (5) A person who purchases a replacement lead-acid battery in  
19 this state is liable for the California battery fee until that fee has  
20 been paid to the board, except that payment to a dealer registered  
21 under this article is sufficient to relieve the person from further  
22 liability of the fee.

23 (6) All moneys remitted to the board pursuant to this subdivision  
24 shall be expended in accordance with Section 25215.5.

25 (b) (1) ~~The~~ *Except for sales to businesses, the* California battery  
26 fee imposed pursuant to subdivision (a) shall be separately stated  
27 by the dealer on the invoice given to a person at the time of sale.  
28 Any other fee charged by the dealer related to the lead-acid battery  
29 purchase, including any deposit charged, credited, or both, pursuant  
30 to Section 25215.2, shall be identified separately from the  
31 California battery fee.

32 (2) If a person purchases more than one lead-acid battery in a  
33 single transaction, and is therefore imposed more than one  
34 California lead-acid battery fee in that transaction, the dealer shall  
35 not be required to individually list on the invoice each California  
36 lead-acid battery fee imposed, but may instead condense the fees  
37 to a single-line item.

38 25215.35. (a) On and after April 1, 2017, a manufacturer  
39 battery fee of one dollar (\$1) shall be imposed on a manufacturer  
40 of lead-acid batteries for each lead-acid battery it sells at retail to

1 a person in California or that it sells to a dealer, wholesaler,  
2 distributor, or other person for retail sale in California.

3 ~~(b) (1) (A) On and after April 1, 2017, a wholesaler of a~~  
4 ~~lead-acid battery who ships or arranges for the shipment of used~~  
5 ~~lead-acid batteries to a lead-acid battery recycling facility may~~  
6 ~~elect to be considered a manufacturer for purposes of subdivision~~  
7 ~~(a). To so elect, the wholesaler shall notify the manufacturer of~~  
8 ~~the lead-acid battery from which the wholesaler purchased the~~  
9 ~~lead-acid battery, the department, and the board of its intent to be~~  
10 ~~considered a manufacturer for those purposes and shall remit a~~  
11 ~~manufacturer battery fee for each lead-acid battery purchased from~~  
12 ~~the notified manufacturer. The wholesaler shall register with the~~  
13 ~~board pursuant to subdivision (b) of Section 25215.45 and provide~~  
14 ~~at least 30 days' notice to the manufacturer, the department, and~~  
15 ~~the board before the wholesaler is considered a manufacturer under~~  
16 ~~subdivision (a). If a wholesaler under this subdivision only remits~~  
17 ~~a manufacturer battery fee for a portion of the manufacturer's~~  
18 ~~lead-acid battery inventory sold in the state, the manufacturer shall~~  
19 ~~remain responsible for remittance of the manufacturer battery fee~~  
20 ~~for the remaining lead-acid batteries sold in the state. Multiple~~  
21 ~~wholesalers may remit manufacturer battery fees for their sales of~~  
22 ~~batteries from a single manufacturer. Regardless of the number of~~  
23 ~~wholesalers paying manufacturer battery fees for sales of a~~  
24 ~~manufacturer's batteries, the manufacturer shall remain responsible~~  
25 ~~for manufacturer battery fees not paid by a wholesaler.~~

26 ~~(B) A manufacturer shall not be required to pay the manufacturer~~  
27 ~~battery fee that is to be paid by a wholesaler pursuant to this~~  
28 ~~subdivision if both of the following conditions are met:~~

29 ~~(i) The manufacturer has been notified by the wholesaler and~~  
30 ~~the board of the wholesaler's election to be considered a~~  
31 ~~manufacturer and the wholesaler's intent to remit the manufacturer~~  
32 ~~battery fee for each lead-acid battery purchased from the notified~~  
33 ~~manufacturer.~~

34 ~~(ii) The manufacturer has registered with the board pursuant to~~  
35 ~~subdivision (b) of Section 25215.45, and submits informational~~  
36 ~~returns to the board in a manner and form to be determined by the~~  
37 ~~board.~~

38 ~~(2) A wholesaler that provides notice pursuant to paragraph (1)~~  
39 ~~shall be considered a manufacturer for purposes of subdivision (a)~~  
40 ~~until 60 days after the wholesaler provides notice to the board, the~~

1 department, and the manufacturer of the lead-acid battery of the  
2 wholesaler's intention to no longer be considered a manufacturer.  
3 If the manufacturer of the lead-acid batteries for which the  
4 wholesaler elects to no longer pay a manufacturer battery fee has  
5 not registered with the board, the wholesaler shall continue to be  
6 considered a manufacturer until notified by the board that the  
7 manufacturer has registered with the board.

8 ~~(3) The board shall establish appropriate procedures for~~  
9 ~~providing notifications pursuant to this subdivision.~~

10 ~~(e) (1)~~

11 ~~(b) Manufacturer battery fees shall be paid to the board in a~~  
12 ~~manner and form as prescribed by the board and at the time the~~  
13 ~~return is required to be filed, as specified in Section 25215.47.~~

14 ~~(c) This section shall become inoperative on April 1, 2022, and,~~  
15 ~~as of January 1, 2023, is repealed, unless a later enacted statute,~~  
16 ~~that becomes operative on or before January 1, 2023, deletes or~~  
17 ~~extends the dates on which it becomes inoperative and is repealed.~~

18 ~~25215.4. (a) A manufacturer otherwise exempt from the~~  
19 ~~manufacturer battery fee pursuant to Section 25215.35 may elect~~  
20 ~~to submit an additional manufacturer battery fee of one dollar (\$1)~~  
21 ~~per lead-acid battery that is otherwise paid by a wholesaler. A~~  
22 ~~manufacturer described in this section shall be subject to Section~~  
23 ~~25215.55.~~

24 ~~(b) An additional manufacturer battery fee that is paid by a~~  
25 ~~manufacturer under subdivision (a) shall be treated as a~~  
26 ~~manufacturer battery fee for purposes of this article and shall be~~  
27 ~~administered as a manufacturer battery fee. If a manufacturer elects~~  
28 ~~to submit an additional manufacturer battery fee under subdivision~~  
29 ~~(a), only that manufacturer may pay the fee and that manufacturer~~  
30 ~~shall not assign the payment of that fee to another party.~~

31 ~~(e) The election of an otherwise exempt manufacturer to pay~~  
32 ~~an additional manufacturer battery fee does not relieve a wholesaler~~  
33 ~~who makes the election described in subdivision (b) of Section~~  
34 ~~25215.35 from his or her liability to pay a manufacturer battery~~  
35 ~~fee.~~

36 ~~(d) A manufacturer that elects to pay an additional manufacturer~~  
37 ~~battery fee pursuant to this section shall be prohibited from~~  
38 ~~imposing or passing on the fee to a wholesaler or dealer.~~

39 ~~(e) A manufacturer that elects to pay an additional manufacturer~~  
40 ~~battery fee shall provide notice of that election to the board no less~~

1 than 30 days before the date he or she intends to begin paying the  
2 additional manufacturer battery fee. The manufacturer shall register  
3 with the board pursuant to subdivision (b) of Section 25215.45  
4 and shall submit returns to the board in a manner and form to be  
5 determined by the board.

6 ~~(f) If an otherwise exempt manufacturer that elects to pay an  
7 additional manufacturer battery fee no longer elects to pay that  
8 fee, that manufacturer shall provide notice to the board no less  
9 than 30 days before the date he or she intends to stop paying that  
10 fee.~~

11 ~~(g) The board shall establish by regulation procedures for  
12 providing notifications pursuant to this section.~~

13 25215.45. (a) (1) Except as provided in paragraph (2), the  
14 lead-acid battery fees imposed pursuant to Sections 25215.25 and  
15 25215.35 shall be collected by the board in accordance with the  
16 Fee Collection Procedures Law (Part 30 (commencing with Section  
17 55001) of Division 2 of the Revenue and Taxation Code). For the  
18 purposes of this section, the reference to “feepayer” shall include  
19 a dealer, manufacturer, importer, and wholesaler, including a  
20 wholesaler that makes an election pursuant to paragraph (1) of  
21 subdivision (b) of Section 25215.35, but shall not include a  
22 manufacturer that makes a voluntary payment pursuant to Section  
23 25215.4 as to that voluntary payment. *dealer and manufacturer.*

24 (2) Notwithstanding the petition for redetermination and claim  
25 for refund provisions of the Fee Collection Procedures Law (Article  
26 3 (commencing with Section 55081) of Chapter 3 of, and Article  
27 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of  
28 Division 2 of the Revenue and Taxation Code), the board shall not  
29 do either of the following:

30 (A) Accept or consider any petition for redetermination of fees  
31 determined under this article if the petition is founded upon the  
32 grounds that a battery is or is not a lead-acid battery, as defined in  
33 Section 25215.1. The board shall forward to the department any  
34 petition for redetermination that is based on those grounds.

35 (B) Accept or consider a claim for refund of fees paid pursuant  
36 to this article, if the claim for refund is founded upon the grounds  
37 that a battery is or is not a lead-acid battery, as defined in Section  
38 25215.1. The board shall forward to the department any claim for  
39 refund that is based on these grounds.

40 (b) The following persons shall register with the board:

1 (1) A dealer of lead-acid ~~batteries in the state.~~ *batteries.*

2 (2) A manufacturer of lead-acid ~~batteries in the state, including~~  
3 ~~a manufacturer that voluntarily pays a manufacturer battery fee,~~  
4 ~~as provided in Section 25215.4.~~ *batteries.*

5 ~~(3) An importer of lead-acid batteries into the state.~~

6 ~~(4) A wholesaler of lead-acid batteries in the state, including a~~  
7 ~~wholesaler that elects to be considered a manufacturer, as provided~~  
8 ~~in Section 25215.35.~~

9 25215.47. (a) The return required to be filed pursuant to  
10 Section 55040 of the Revenue and Taxation Code shall be prepared  
11 and filed by the person required to register with the board, in the  
12 form prescribed by the board, and shall contain the information  
13 the board deems necessary or appropriate for the proper  
14 administration of this article and the Fee Collection Procedures  
15 Law. Except as provided in subdivision (b), the return shall be  
16 filed on or before the last day of the calendar month following the  
17 calendar quarter to which the return relates, together with a  
18 remittance payable to the board for the fee amount due for that  
19 period. Returns shall be filed with the board using electronic media  
20 and authenticated in a form, or pursuant to methods, as may be  
21 prescribed by the board.

22 (b) The board may require the payment of the fee and the filing  
23 of the returns for other than quarterly periods.

24 25215.5. (a) Lead-acid battery fees collected pursuant to this  
25 article shall be managed as follows:

26 (1) The board shall retain moneys necessary for the payment of  
27 refunds and reimbursement of the board for expenses in the  
28 collection of the fees.

29 (2) The remaining moneys shall be deposited into the Lead-Acid  
30 Battery Cleanup Fund, which is hereby created in the State  
31 Treasury, and ~~are hereby be continuously appropriated, without~~  
32 ~~regard to fiscal year, to the department, except as provided in~~  
33 ~~Section 124166, is available upon appropriation by the Legislature~~  
34 ~~to the department for the purposes of the lead-acid battery activities~~  
35 ~~specified in subdivision (b).~~ *specified in this section.*

36 (b) (1) Moneys in the Lead-Acid Battery Cleanup Fund shall  
37 be expended for the following activities:

38 (1)

39 (A) Investigation, site evaluation, cleanup, ~~abatement, remedy,~~  
40 *remedial action*, removal, monitoring, or other response actions

1 at any area of the state that ~~has~~ *is reasonably suspected to have*  
2 ~~been contaminated by the production, recycling, or improper~~  
3 ~~disposal operation of a lead-acid batteries. battery recycling~~  
4 ~~facility.~~

5 ~~(2)~~

6 ~~(B) Administration of the Lead-Acid Battery Cleanup Fund.~~  
7 ~~Fund and the department's administration and implementation of~~  
8 ~~this article.~~

9 ~~(3)~~

10 ~~(C) Repayment of a loan described in Section 25215.6 25215.59~~  
11 ~~that was made before the effective date of the act which added this~~  
12 ~~section, or any other loan made for purposes set forth in paragraph~~  
13 ~~(1). subparagraph (A).~~

14 ~~(4) Establishment and administration of the Lead Advisory~~  
15 ~~Committee pursuant to Section 124166.~~

16 ~~(2) Moneys in the Lead-Acid Battery Cleanup Fund shall not~~  
17 ~~be used to implement Article 14 (commencing with Section 25251)~~  
18 ~~with respect to lead-acid batteries or to loan moneys to any other~~  
19 ~~program.~~

20 ~~(c) The department shall report to the Legislature by February~~  
21 ~~1, 2018, and annually to the Governor and to the Legislature~~  
22 ~~thereafter, on the status of the Lead-Acid Battery Cleanup Fund~~  
23 ~~and on the department's progress to implement implementing this~~  
24 ~~article, including, but not limited to, the sites at which actions were~~  
25 ~~performed using moneys from the fund, the status of cleanup at~~  
26 ~~those sites, including total anticipated costs of cleanup at those~~  
27 ~~sites, the balance of the fund, the amount of fees remitted to the~~  
28 ~~fund, the amount spent by the fund and the purposes for which~~  
29 ~~those amounts were spent, the amounts reimbursed to the board~~  
30 ~~pursuant to paragraph (1) of subdivision (a), and any other~~  
31 ~~information requested by the Governor or the Legislature.~~

32 ~~25215.55. (a) The maximum balance in the Lead-Acid Battery~~  
33 ~~Cleanup Fund shall be one hundred million dollars (\$100,000,000).~~

34 ~~(b) The minimum balance in the Lead-Acid Battery Cleanup~~  
35 ~~Fund shall be thirty million dollars (\$30,000,000).~~

36 ~~(c) If the balance in the Lead-Acid Battery Cleanup Fund reaches~~  
37 ~~the maximum limit set forth under subdivision (a), the manufacturer~~  
38 ~~battery fee shall, beginning on the first day of the following~~  
39 ~~calendar quarter, be reduced to zero dollars (\$0.00) for the~~  
40 ~~remainder of the calendar year.~~

1 ~~(d) If, as of October 1 of any calendar year, the balance in the~~  
2 ~~Lead-Acid Battery Cleanup Fund is equal to or less than the~~  
3 ~~minimum limit set forth under subdivision (b), the manufacturer~~  
4 ~~battery fee shall revert back to the fee set forth in Section 25215.35~~  
5 ~~on January 1 of the following calendar year.~~

6 ~~(e) (1) The department and the board shall establish by~~  
7 ~~regulation procedures to provide notice between the department,~~  
8 ~~the board, and the Department of Finance regarding the Lead-Acid~~  
9 ~~Battery Cleanup Fund balance and the adjustment of the~~  
10 ~~manufacturer battery fee amount. The department shall determine~~  
11 ~~whether an adjustment of the manufacturer battery fee is necessary~~  
12 ~~and shall provide written notice to registered lead-acid battery~~  
13 ~~manufacturers no less than 60 days before the effective date of~~  
14 ~~change in the manufacturer battery fee amount pursuant to~~  
15 ~~subdivision (e) or (d).~~

16 ~~(2) If the manufacturer battery fee is reverted pursuant~~  
17 ~~subdivision (d) and the department does not provide the notice~~  
18 ~~required under paragraph (1) to a manufacturer, that manufacturer~~  
19 ~~shall not be in violation of this article if the manufacturer fails to~~  
20 ~~remit the manufacturer battery fee.~~

21 *25215.56. (a) Any manufacturer battery fees paid remitted*  
22 *pursuant to this article shall be credited against amounts owed by*  
23 *the manufacturer to the state pursuant to a judgment or*  
24 *determination of liability under Chapter 6.8 (commencing with*  
25 *Section 25300) or any other law for removal, remediation, or other*  
26 *response costs relating to a release of a hazardous substance from*  
27 *a lead-acid battery recycling facility. A manufacturer shall not*  
28 *seek more than one credit for the same fee amount. This subdivision*  
29 *does not apply to any manufacturer who is also an owner or*  
30 *operator of a lead-acid battery recycling facility in California.*

31 *(b) The amount paid by a manufacturer for a manufacturer*  
32 *battery fee shall be considered to reduce the manufacturer's share*  
33 *of liability in the allocation or apportionment of costs among*  
34 *potentially responsible parties in a contribution action brought*  
35 *by a private party related to a release of hazardous substances*  
36 *from a lead-acid battery recycling facility. This subdivision does*  
37 *not apply to any manufacturer who is also an owner or operator*  
38 *or a former owner or operator of a lead-acid battery recycling*  
39 *facility in California where a release occurred.*



1 (c) *This article does not create a private cause of action. Nothing*  
2 *in this article shall be construed to affect, expand, alter, or limit*  
3 *any requirements, duties, rights, or remedies under other law, or*  
4 *limit the state or any other party from bringing any cause of action*  
5 *that may exist under any law.*

6 ~~25215.6.~~

7 25215.59. If the state loans money from the General Fund to  
8 the Toxic Substances Control Account for the cleanup of lead  
9 contamination in the state, the following shall apply:

10 (a) Money from the Lead-Acid Battery Cleanup Fund may be  
11 used towards repaying the ~~loan.~~ *loan that was made before the*  
12 *effective date of the act that added this section, or any other loan*  
13 *of public funds made for the purposes set forth in subparagraph*  
14 *(A) of paragraph (1) of subdivision (b) of Section 25215.5.*

15 (b) Any moneys designated as repayment of the loan shall be  
16 deposited to that loan, but shall be available to be loaned to the  
17 Toxic Substances Control Account for the purposes of cleaning  
18 up areas of the state that *are reasonably suspected to have been*  
19 *contaminated with lead by the production, handling, storage,*  
20 *reclamation, or improper disposal operation of a lead-acid batteries.*  
21 *battery recycling facility.*

22 25215.65. On and after July 1, 2017, a manufacturer shall place  
23 a recycling symbol consistent with the requirements of Section  
24 103(b)(1) of the Federal Mercury Containing and Rechargeable  
25 Battery Management Act, Pub. L. No. 104-142 (1996) (42 U.S.C.  
26 14301(b)(1)) and either “Pb” or the words “lead,” “return,” and  
27 “recycle” on all replacement lead-acid batteries sold in California.  
28 *For purposes of this section, an entity that engages another party*  
29 *to manufacture batteries on its behalf shall be deemed the*  
30 *manufacturer.*

31 25215.72. One million two hundred thousand dollars  
32 (\$1,200,000) shall be loaned from the ~~General Fund or a special~~  
33 ~~fund~~ *California Tire Recycling Management Fund* to the board  
34 for implementing the collection of the California battery fee and  
35 the manufacturer battery fee and shall be repaid from the proceeds  
36 ~~of the collection of those fees~~ pursuant to this article no later than  
37 October 1, 2017. *The Director of Finance shall order the*  
38 *repayment of all or a portion of this loan if he or she determines*  
39 *that either of the following circumstances exist:*

1 (a) *The fund or account from which the loan was made has a*  
2 *need for the moneys.*

3 (b) *There is no longer a need for the moneys by the board.*

4 25215.74. (a) The board may prescribe, adopt, and enforce  
5 regulations relating to the administration and enforcement of this  
6 article, including, but not limited to, registration, collections,  
7 reporting, notices for manufacturers, ~~notices for wholesalers~~  
8 ~~regarding elections pursuant to paragraph (1) of subdivision (b)~~  
9 ~~of Section 25215.35~~, refunds, and appeals.

10 (b) The board may prescribe, adopt, and enforce any emergency  
11 regulations as necessary to implement this article. Any emergency  
12 regulation prescribed, adopted, or enforced pursuant to this article  
13 shall be adopted in accordance with Chapter 3.5 (commencing  
14 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
15 Government Code, and, for purposes of that chapter, including  
16 Section 11349.6 of the Government Code, the adoption of the  
17 regulation is an emergency and shall be considered by the Office  
18 of Administrative Law as necessary for the immediate preservation  
19 of the public peace, health and safety, and general welfare.  
20 Emergency regulations adopted pursuant to this subdivision shall  
21 remain in effect until regulations have been adopted pursuant to  
22 subdivision (a).

23 25215.75. This article shall become operative on January 1,  
24 2017.

25 SEC. 2. Section 25215.5.5 is added to Article 10.5  
26 (commencing with Section 25215) of Chapter 6.5 of Division 20  
27 of the Health and Safety Code, as added by Chapter 209 of the  
28 Statutes of 1988, to read:

29 25215.5.5. This article shall remain in effect only until January  
30 1, 2017, and as of that date is repealed, unless a later enacted  
31 statute, that is enacted before January 1, 2017, deletes or extends  
32 that date.

33 ~~SEC. 3. Section 124166 is added to the Health and Safety Code,~~  
34 ~~to read:~~

35 ~~124166. (a) On or before October 1, 2017, the Office of~~  
36 ~~Environmental Health Hazard Assessment shall convene a Lead~~  
37 ~~Advisory Committee to review and advise regarding policies and~~  
38 ~~procedures to reduce childhood lead poisoning in the state. Until~~  
39 ~~October 1, 2019, the committee shall meet quarterly and, by that~~  
40 ~~date, shall publish a recommended regulatory agenda for the state~~

1 that would identify sources of lead that affect children and ensure  
2 that regulatory standards are protective of the health of the children  
3 of this state. After October 1, 2019, the committee shall meet twice  
4 a year.

5 (b) Membership of the committee shall be as follows:

6 (1) One member shall be a lead exposure assessment expert.

7 (2) One member shall be a biostatistician or epidemiology expert.

8 (3) One member shall be a pediatrician.

9 (4) One member shall be an occupational health expert.

10 (5) One member shall be a lead remediation expert.

11 (6) Two members shall be representatives from environmental  
12 justice organizations that work on lead contamination.

13 (7) Two members shall be local government representatives  
14 from lead poisoning prevention programs.

15 (8) One member shall be a representative from the program  
16 established pursuant to this article.

17 (9) One member shall be a representative of industries that use  
18 lead in producing their products.

19 (10) One member shall be a representative of the lead recycling  
20 industry.

21 (11) One member shall be a representative of the civil aviation  
22 industry.

23 (12) One member shall be a representative of industries not  
24 otherwise represented on the committee that are emitters of  
25 significant quantities of lead into the air of the state.

26 (e) In its recommended regulatory agenda, the committee shall  
27 do all of the following:

28 (1) Evaluate each of the following:

29 (A) The program established pursuant to this article.

30 (B) Each county's childhood lead testing programs.

31 (C) The drinking water program described in Section 116271.

32 (D) Each county's healthy homes program.

33 (2) Address remedial action strategies that should be considered  
34 by the Department of Toxic Substances Control when approving  
35 remedial action plans.

36 (3) Advise state and local entities on how to better use  
37 biomonitoring data that the state receives to identify opportunities  
38 to prevent lead poisoning.

39 (4) Review existing regulatory provisions for the protection and  
40 health of children in California and recommend any appropriate

1 ~~changes to any regulations that have not been revised on or after~~  
2 ~~January 1, 2011.~~

3 ~~(5) Provide advice on how to align the state's lead regulatory~~  
4 ~~framework with the Center for Disease Control and Prevention's~~  
5 ~~most recent findings on the toxicity of lead to children.~~

6 ~~(6) Identify key policies, regulations, and protocols for state~~  
7 ~~agencies to follow to better protect California's children from lead~~  
8 ~~exposure.~~

9 ~~(d) Each member of the committee shall receive reasonable and~~  
10 ~~necessary traveling expenses and meal allowances as approved by~~  
11 ~~the Office of Environmental Health Hazard Assessment for each~~  
12 ~~day spent in actual attendance at, or in traveling to and from,~~  
13 ~~meetings of the committee.~~

14 ~~(e) Commencing July 1, 2017, and until July 1, 2019, for each~~  
15 ~~fiscal year, two hundred fifty thousand dollars (\$250,000) is hereby~~  
16 ~~annually appropriated from the Lead-Acid Battery Cleanup Fund,~~  
17 ~~established pursuant to Section 25215.5, to the Office of~~  
18 ~~Environmental Health Hazard Assessment for purposes of~~  
19 ~~establishing and administering the Lead Advisory Committee. On~~  
20 ~~and after July 1, 2019, one hundred thousand dollars (\$100,000)~~  
21 ~~is hereby annually appropriated for each fiscal year from the~~  
22 ~~Lead-Acid Battery Cleanup Fund for these purposes.~~

23 ~~SEC. 4. Each~~

24 ~~SEC. 3. (a) On or before January 1, 2017, each manufacturer~~  
25 ~~of lead-acid batteries sold in this state shall notify the distributors,~~  
26 ~~wholesalers, and dealers of the lead-acid batteries it manufactures~~  
27 ~~of the requirements set forth in Article 10.5 (commencing with~~  
28 ~~Section 25215) of Chapter 6.5 of Division 20 of the Health and~~  
29 ~~Safety Code, as it will read on and after January 1, 2017.~~

30 ~~(b) This section shall be repealed as of January 1, 2017.~~

31 ~~SEC. 5.~~

32 ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
33 ~~Section 6 of Article XIII B of the California Constitution because~~  
34 ~~the only costs that may be incurred by a local agency or school~~  
35 ~~district will be incurred because this act creates a new crime or~~  
36 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
37 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
38 ~~the Government Code, or changes the definition of a crime within~~  
39 ~~the meaning of Section 6 of Article XIII B of the California~~  
40 ~~Constitution.~~

1     ~~SEC. 6.~~

2     *SEC. 5.* This act is an urgency statute necessary for the  
3 immediate preservation of the public peace, health, or safety within  
4 the meaning of Article IV of the Constitution and shall go into  
5 immediate effect. The facts constituting the necessity are:

6     In order to increase the cleanup of toxic materials and to prevent  
7 additional toxic pollution at the earliest possible time, it is  
8 necessary that this act take effect immediately.

O